

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 02-0529
Sales and Use Tax
Tax Year 1999

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ISSUES

I. Sales and Use Tax-Imposition of Tax

Authority: IC 6-8.1-5-1 (b), IC 6-2.5-3-2, IC 6-2.5-5-8, IC 6-2.5-5-6, IC 6-2.5-3-2(d).

The taxpayer protests the imposition of use tax on a truck.

STATEMENT OF FACTS

The taxpayer is a corporation with several lines of business including dealing in used automobiles. The taxpayer purchased a truck from another dealership on November 10, 1999. The taxpayer filed an ST108-E stating that the transaction was exempt from the sales tax because the taxpayer purchased the vehicle for resale in its regular course of business. Therefore, the taxpayer did not pay any sales tax at the time of the purchase. The taxpayer modified this vehicle by repainting it and changing accessories such as the running boards. The taxpayer used this vehicle as a demonstrator or model of the sorts of changes it could make to a vehicle in its automobile conversion business. The modified truck was shown to potential automobile conversion customers at the taxpayer's business site and at regional automobile and automobile conversion shows. The taxpayer sold the truck and properly collected and remitted sales tax on February 3, 2003. The Indiana Department of Revenue, hereinafter referred to as the "department," assessed use tax, interest, and penalty on the taxpayer's use of this truck. The taxpayer protested the assessment. A telephone hearing was held and this Letter of Findings results.

I. Sales and Use Tax-Imposition of Tax

Discussion

The department assessed use tax on the taxpayer's use of the truck from 1999 to 2003.

All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

Indiana imposes an excise tax, the use tax, on tangible personal property stored, used, or consumed in Indiana when no sales tax was paid at the time of purchase. IC 6-2.5-3-2. Since the taxpayer used the truck as a demonstrator for its automobile conversion business and did not pay sales tax at the time of purchase, the taxpayer owed use tax on the use unless it qualified for an exemption. The taxpayer argued that the use of the truck qualified for several exemptions.

The taxpayer first argued that the truck qualified for exemption as purchased for resale in the regular course of the taxpayer's business pursuant to IC 6-2.5-5-8. The taxpayer, however, used the truck as a model for the taxpayer's automobile conversion business for more than three years before the truck was resold. The taxpayer argued that he could find no law stating that a truck had to be sold in a certain amount of time to be exempt because it was purchased for resale. At the hearing, however, the taxpayer stated that during that time period the truck was primarily used as a demonstrator for the automobile conversion business. Therefore, the use of the truck did not qualify for exemption from sales or use tax as being purchased for resale. The department properly imposed tax on the taxpayer's use of the truck.

Alternatively, the taxpayer argued that the use of the truck qualified for exemption pursuant to IC 6-2.5-5-6 or IC 6-2.5-3-2(d). Since the sale took place in Indiana and the taxpayer used the truck in Indiana, the above cited exemption statutes do not apply in this situation.

Finding

The taxpayer's protest is denied.